

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT COURT OF RHODE ISLAND**

**JUAN VALDERA, SOBIEDA VALDERA
and BAHIJ BOUTROS**

Plaintiffs

v.

20-cv-470-JJM-PAS

**PHH MORTGAGE CORPORATION and
DEUTSCHE BANK NATIONAL TRUST COMPANY
AS TRUSTEE FOR THE REGISTERED HOLDERS
OF CBA COMMERCIAL ASSETS, SMALL
BALANCE COMMERCIAL MORTGAGE
PASS-THROUGH CERTIFICATES, SERIES 2006-1**

Defendants

**AFFIDAVIT OF LOAN SERVICER IN SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

I Sergio Olmo, of PHH Mortgage

Corporation ("PHH"), Loan Servicer for Deutsche Bank National Trust Company as Trustee for the Registered Holders of CBA Commercial Assets, Small Balance Commercial Mortgage Pass-Through Certificates, Series 2006-1 ("Deutsche Bank"), having personal knowledge of the facts contained in this affidavit, on oath, state as follows:

1. I am employed by and/or serve in the capacity of Contract Management Coordinator at PHH.

2. PHH is the current loan servicer on behalf of Deutsche Bank of the purchase money commercial mortgage loan (the "Commercial Loan") given by Sobieda Valdera, Juan Valdera and Bahij Boutros ("Mortgagors") to New Century Mortgage Corporation ("New Century") dated August 1, 2005

3. In my capacity as Contract Management Coordinator, I have knowledge of the business records of PHH as they relate to the Commercial Loan which is the subject of this affidavit, including but not limited to documents that pertain to the origination of the loan and servicing of the Commercial Loan. PHH's records are kept in the ordinary course of business by persons who have a business duty to make such records. The records are made at or near the occurrence of events so recorded. To the extent records related to the loan come from another entity, those records were received by PHH in the ordinary course of its business, have been incorporated into and maintained as part of PHH's business records, and have been relied on by PHH. I have personal knowledge of the facts set forth in this affidavit based upon my review of PHH's business records maintained in connection with the Commercial Loan and the related mortgage loan account whose repayment is secured by the Mortgage.

4. PHH's obligations include sending statements or coupons to the borrower to facilitate payment, collecting payments from the borrower and making scheduled disbursements of principal and interest, maintaining one or more escrow accounts and making disbursements from such account[s] to pay real estate taxes and or hazard insurance premiums due in connection with the Property and to perform other usual and customary loan servicing functions.

5. I have read and reviewed the Mortgagors' Complaint filed November 3, 2020.

6. PHH's business records reflect that the Mortgagors executed a series of documents as part of the Commercial Loan that enabled them to purchase the real estate known as 273-275 Rand Street, Central Falls, Rhode Island 02863 (the "Property") as an investment property.

7. According to PHH's business records, including the appraisal obtained by the lender who originated the Commercial Loan, the Property is a multi-family apartment building

containing six units. A true and correct copy of the origination appraisal dated July 19, 2005 is attached hereto as Exhibit A.

8. Among the documents evidencing the Commercial Loan is (a) a promissory note dated August 1, 2005 in the amount of \$300,000.00 (the “Note”) executed by the Mortgagors and payable to New Century or order, and (b) a mortgage encumbering the Property, which was recorded on August 4, 2005 in Book 621, Page 253 with the Land Evidence Records of Central Falls (the “LER”) (the “Mortgage”), to secure repayment of the Note, and (c) a loan application which contains a completed checkbox indicating that the Property was purchased for investment purposes. True and correct copies of the Note, Mortgage and loan application are attached hereto as Exhibits B, C and D respectively.

9. The Mortgagors also executed Affidavits of “Commercial Purpose” wherein the Mortgagors confirmed that the Commercial Loan is for business or commercial purposes and not for personal, family, or household (consumer) purposes and that they (the Mortgagors) had been informed that the certain federal and state consumer protection laws would not apply to the loan as the loan was primarily for business or commercial purposes. The Mortgagors also signed an Assignment of Rents as recorded with the Mortgage at the LER in Book 621, Page 265 on August 4, 2005. True and correct copies of the Affidavits of Commercial Purpose and Assignment of Rents are attached here to as Exhibit E and F respectively.

10. PHH’s business records reflect that the Note is indorsed in blank by New Century. No other indorsements appear on the Note. Deutsche Bank or its document custodian has had possession of the Note since delivery, is the owner of the Note and has the right to enforce it. Deutsche Bank or its document custodian has temporarily relinquished possession of the Note to its counsel, Korde & Associates, P.C., for the purposes of this litigation to present to the Court to

inspect on any hearing on this motion. The Note is an instrument which in the ordinary course of business, was transferred by delivery with any necessary indorsement to Deutsche Bank.

11. The Mortgage was assigned by New Century to Deutsche Bank via assignment (by Ocwen Loan Servicing, LLC under power of attorney) dated March 3, 2014 and recorded April 14, 2014 in the Central Falls Land Evidence Records in Book 848, Page 135 (“Assignment”). A copy of said recorded assignment is attached hereto as Exhibit G. A limited Power of Attorney executed by New Century on December 13, 2006 granting Ocwen Loan Servicing, LLC the authority to execute assignments of mortgages, in addition to other documents, on its behalf is recorded with the Central Falls Land Evidence Records in Book 816, page 152 on July 25, 2012. A certified recorded copy is attached hereto as Exhibit H.

12. The Providence Superior Court entered judgment on July 19, 2019 equitably assigning the Mortgage from New Century to Deutsche Bank in Civil Action, PC-2016-5232 (the “Judgment”) The Judgment is recorded with the Central Falls Land Evidence Records in Book 960, Page 70. A recorded copy of the Judgment is attached hereto as Exhibit I.

13. PHH’s business records contain an execution copy of a Mortgage Loan Purchase Agreement dated April 1, 2006 between CBA Commercial Assets, LLC as Purchaser and CBA Commercial, LLC as Seller (“MLPA”). The Commercial Loan evidenced by the Note and Mortgage appears on line no. 122 in the Mortgage Loan Schedule (“Loan Schedule”) that accompanies and is referred to in the bodies of the MLPA and in the PSA referenced in the following paragraph. The Commercial Loan evidenced by the Note and Mortgage is identified on Line No. 122 in the Mortgage Loan Schedule by several unique characteristics including the loan number (5580009045944) assigned by the originating lender, New Century, and that appears on the face pages of the Note and Mortgage. A true and correct copy of the MLPA with the redacted

Loan Schedule listing the Commercial Loan evidenced by the Note and Mortgage is attached hereto as Exhibit J.

14. PHH's business records contain an execution copy of a Pooling and Servicing Agreement dated April 1, 2006 with CBA Commercial Assets, LLC as Depositor, GMAC Commercial Mortgage Corporation as Servicer and Special Servicer, and Deutsche Bank National Trust Company as Trustee (the "PSA"). A true and accurate copy of the PSA is attached hereto as Exhibit K.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY this 20th day of July, 2021.

PHH MORTGAGE CORPORATION as servicer for Deutsche Bank National Trust Company, as Trustee for the registered Holders of CBA Commercial Assets, Small Balance Commercial Mortgage Pass-Through Certificates, Series 2006-1

By: 

Name (Printed): Sergio Olmo

Title: Contract Management Coordinator

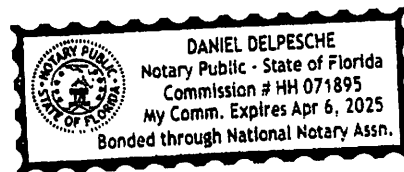
STATE OF Florida

COUNTY OF Palm Beach

The foregoing instrument was acknowledged and sworn before me by means of ☒ physical presence or ☐ online notarization, this 20th day of July, 2021, by Sergio Olmo as Contract Management Coordinator for PHH Mortgage Corporation as Servicer for Deutsche Bank National Trust Company, as Trustee for the registered Holders of CBA Commercial Assets, Small Balance Commercial Mortgage Pass-Through Certificates, Series 2006-1, who is personally known to me or who has produced _____ as identification.



Signature of Notary Public: Daniel Delpesche
Name of Notary Public: _____
Notary Commission Expiration Date: _____



Personally known: X
OR Produced Identification: _____
Type of Identification Produced: _____